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OFFICE OF PETITIONS

In re Application of :
Gobson, et al. :
Application No. 10/616,796 : DECISION
Filed: 10 July, 2003 :
Attorney Docket No.: H0004400 :
:

This is a decision on the petition, filed 25 November, 2005, to revive the instant nonprovisional application under the provisions of 37 C.F.R. §1.137(f).

NOTES:

It appears that, since the filing of the instant petition, Petitioner has not inquired as to the Status of the instant matter—Petitioner is reminded that the filing of such inquiries at a minimum of three- (3-) month intervals may provide a showing of diligence should the extended delay be questioned (for example, as required under 37 C.F.R. §1.181).

Monitoring of the status of applications on Private PAIR can inform one's management of application responses and provide an indication when mailings of Office actions should be expected.

Petitioner does not appear to be Counsel of Record or otherwise empowered to prosecute the instant application. In this connection, Petitioner must file of record the appropriate revocation/power of attorney.

Moreover, the correspondence address of record are different than that shown on the papers submitted herein.

However, Petitioner has submitted no formal change(s) in this regard.

If Petitioner desires to receive future correspondence regarding this application, the appropriate Notice of Change of Address (for correspondence) and Fee Address must be submitted.

A courtesy copy of this decision will be mailed to Petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary.

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in a foreign country or otherwise requiring publication on 9 July, 2004. Moreover, Petitioner submitted the instant petition (with revision request) 25 November, 2005, upon learning of the error.

Thus, Petitioner alleges unintentional failure to notify the U.S. Patent and Trademark Office of this filing of the subject application in a foreign country within 45 days of that filing.

In view of the above, this application became abandoned pursuant to 35 U.S.C. §122(b)(2)(B)(iii) and 37 C.F.R. §1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition under 37 C.F.R. §1.137(f) must be accompanied by:

- (1) the reply--which is met by the notification of such filing in a foreign country or under a multinational treaty;
- (2) the petition fee as set forth in 37 C.F.R. §1.17(m); and
- (3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 C.F.R. §1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. §122(b)(2)(B)(iii) and 37 C.F.R. §1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. §122(b)(2)(B)(I) has been rescinded. A Notice Regarding Rescission of Nonpublication Request, which sets forth the projected publication date of ***12 October, 2006***, accompanies this decision.

This application is being released to Technology Center 2600 for further processing in due course.

Inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.



John J. Gillon, Jr.

Senior Attorney
Office of Petitions

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

CC:

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